

2015 APAAC Annual Victim Advocate Conference



COMPLEX VICTIM RIGHTS

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Victim Advocate
Conference**



COMPLEX VICTIM RIGHTS

**COMPLEX VICTIM RIGHTS AND
COMMUNICATION SKILLS**

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What's The Problem... It's The Law, Right?

- ☐ Just because it's mandated, doesn't make it easy.
- ☐ Communicating complex legal concepts is like speaking a foreign language to some victims.
- ☐ It's not only the language we need to explain, but the criminal justice culture.

Today's Goals

- Discuss some of the more complex rights.
- Work together to come up with best practices.
- Provide some additional ideas to consider.

Exculpatory – A.R.S. §§ 13-4430 & 8-409



- What is It?
 - Refers to evidence and/or statements which tend to clear, justify, or excuse a defendant from alleged fault or guilt.
 - Obvious example: Victim says "I lied to police."

Exculpatory



- Why is it Important?
 - Important to ensure a fair trial.
 - Undisclosed exculpatory statements could cause a mistrial, appellate issues, or even a dismissal.
 - Exculpatory information is NOT privileged or confidential communication with an advocate.

Exculpatory

- What's the Problem?
 - Complex legal term.
 - Advocates are not lawyers.
 - Advocates don't always know what the victim has or has not disclosed to the prosecutor.
 - Can be difficult to discern what statements might be exculpatory.

Exculpatory Scenario



- Review scenario at your table.
- Come up with a "Best Practice."
- Explain why you chose this option.
- Choose someone to report to the group.

Additional Ideas to Consider

- Consider a process that includes an attorney review.
- Avoid discussing details about the case (e.g., facts, motives, etc.) with the victim unless the prosecutor, detective, or legal support staff are present.

Conferring With a Prosecutor – A.R.S. §§ 13-4419 & 8-399



- What Is it?
 - Right to confer with prosecutor.
 - After the crime against the victim has been charges, before trial, or before any disposition of the case (i.e. plea/sentencing negotiations).

Conferring With a Prosecutor

- Why is it Important?
 - One of the highest reported victims' rights violations.
 - Communicates the victim's wishes.
 - Opportunity to explain CJ system and options.

Conferring With a Prosecutor



- What is the Problem?
 - Attorneys are not always available.
 - Attorneys may say they do not have the time or the ability to effectively communicate concerns or problems with the case.
 - Don't have rapport with the victim and may not have the entire picture.
 - Victim has unrealistic expectations.
 - Agencies/attorneys will think that the victim talking to the advocate is enough.
 - Attorneys may not call the victim back after the advocate asks that they call the victim.
 - No documentation of the (attempted) conversation.
